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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/915,017	07/25/2001	Robert C. Kerr	2104B	5858

7590 03/14/2003

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EXAMINER

SINGH, ARTI R

ART UNIT	PAPER NUMBER
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1771

DATE MAILED: 03/14/2003

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Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/915,017

Applicant(s)

KERR ET AL.

Examiner

Ms. Arti Singh

Art Unit

1771

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 25 July 2001.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1 and 2 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1 and 2 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 25 July 2001 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on _____ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☒ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☒ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449) Paper No(s) 2.
- 4) ☐ Interview Summary (PTO-413) Paper No(s) _____.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____.

Claim Rejections - 35 USC § 112

5. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

6. Claims 1 and 2 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. As currently claimed in claim 1, it is unclear as to which side of the "surface" the cleats are formed on upon/within. Please clarify as to which side, top or bottom. Further, the limitation of a "weave pattern" could mean a plethora of weaves, please elaborate. Claim 2 is objected to as being dependent upon a rejected base claim.

Oath/Declaration

7. The oath or declaration is defective. A new oath or declaration in compliance with 37 CFR 1.67(a) identifying this application, by application number and filing date is required. See MPEP §§ 602.01 and 602.02. The oath or declaration is defective because: the priority that is disclosed to USPN 6,303,068 is not seen and needs to be amended.

Claim Rejections - 35 USC § 102

8. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless -

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claim Rejections - 35 USC § 103

9. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject

matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

10. Claims 1 and 2 are rejected under 35 U.S.C. 102(b) as anticipated by or, in the alternative, under 35 U.S.C. 103(a) as obvious over LANG USPN 4,902,554. Lang teaches a vulcanized rubber article preferably of sheet or plate form and preferably having a relief pattern in at least part of its surface, integrated in any surface areas, inserted or settled into the same (abstract). In a preferred embodiment Patentee (column 2, and figure 2) discloses a cleated service mat having an upper pile textile layer which has been vulcanized together with the mat backing. At the surface of the backing layer on its bottom side, a rubber material has been vulcanized in the form of letters, signs, and figures in a color deviating from the mat backing (column 2, lines 11-26). Signs are seen in label area also to be inserted or settled in the mat backing or projections (cleats). The rubber material may in FIG. 2 be a sign, for instance the letter I, across the entire label area 3. In FIGS. 1 and 2, the vulcanized rubber article 8 is a service mat but could also be for instance an automobile mat of rubber. Rubber material 6, integrated in rubber article 8, has been selected from such materials as are compatible with at least one material in the group of nitrile latex, natural latex, styrene butadiene rubber or carboxylated rubber, and rubber is to be understood as natural as well as synthetic rubber. Lang teaches what is set forth above but does not disclose that the design or pattern used forms a "weave pattern". It would have been obvious to a person having ordinary skill in the art at the time the invention was made to have chosen a weave pattern, since it has been held to be within general skill of a artisan in the art to select a known material on the basis of its suitability for the intended use as a matter of design choice. Further, the Examiner takes the position that choosing a specific design pattern to be employed on the composite is merely an

aesthetic quality that does not contribute to the function of the device or the ability of the device to meet the objects of the invention and with the absence of unexpected results the Examiner believes that the patent to Lang obviates the present application.


Conclusion

11. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. The art cited on the 892 all show composites having a pile/tuft layer, a rubber layer and cleats in some pattern or another. However, the Examiner believes that the applying each and everyone would be redundant and that the above cited art is the best.

12. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Ms. Arti Singh whose telephone number is 703-305-0291. The examiner can normally be reached on M-F 8:00am to 6:00 pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Terrel Morris can be reached on 703-308-2414. The fax phone numbers for the organization where this application or proceeding is assigned are 703-873-9310 for regular communications and 703-872-9311 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703-308-0661.

 3/10/03

Ms. Arti Singh
Patent Examiner
Art Unit 1771